

7/13/2009 1:07:00 PM

PO Form  
Status P

STATE OF DELAWARE - PURCHASE ORDER

|         |            |    |      |             |              |        |          |                 |     |      |      |      |          |
|---------|------------|----|------|-------------|--------------|--------|----------|-----------------|-----|------|------|------|----------|
| BATCH # | Trans Code | PO | DEPT | Order No.   | PO DATE      | ACT/TP | COMMENTS | VENDOR/ISSN/NO. | INV | FUND | DEPT | ORGN | PO TOTAL |
|         |            | 40 |      | 01040000889 | Jul 13, 2009 | E 1    |          | 510316582 AA    | N   |      |      |      | 74496.00 |

CONDITIONS AND INSTRUCTIONS TO VENDOR

- Acceptance of this Purchase Order is agreement to accept payment by credit card, ACH or by check at the State's option.
- All prices F.O.B. destination unless otherwise indicated.
- This order and the performance thereof shall be construed and governed in accordance with the laws of the State of Delaware.
- Separate invoices must be submitted for each order. Submit invoice in triplicate.
- Any price changes must be agreed to by the Ordering Agency prior to submitting invoice.
- Purchase order not valid unless signed by Secretary of Department of Finance or designee or under \$2500.00 or marked emergency.

AUTHORIZED AGENCY SIGNATURES

Signed: *[Signature]* Date: 7/13/09  
 Signed: *[Signature]* Date: 7/13/09

I, the above, certify that this purchase order is issued in conformity with all pertinent statutes, that the items described are requested for the efficient operation of this Department and are properly chargeable to the funds and appropriation indicated hereon.

APPROVED FOR AVAILABLE FUNDS

Signed: *[Signature]* Secretary of Department of Finance or Designee

ORDERING AGENCY

DNREC/ENERGY OFFICE  
 89 KINGS HIGHWAY  
 DOVER, DE 19901

VENDOR

BAY DEVELOPERS INC.  
 200 Weston Dr  
 Dover, DE 19904

SHIP TO

*[Handwritten: Bldg 200]*

| LINE NO. | FY | Fund Dept | ORGN     | APPR | OBJ  | SUB OBJ | PROG | REPT CAT | DESCRIPTION              | AMOUNT      | ID |
|----------|----|-----------|----------|------|------|---------|------|----------|--------------------------|-------------|----|
| 1        | 10 | 100 40    | 01040000 | 8800 | 5402 |         |      |          | BUILDINGS - OFFICE SPACE | \$20,000.00 | I  |
| 2        | 09 | 100 40    | 01040000 | 4000 | 5402 |         |      |          | BUILDINGS - OFFICE SPACE | \$54,496.00 | I  |

| ITEM | DESCRIPTION   | QUANTITY | UNIT PRICE | AMOUNT      |
|------|---|----------|------------|-------------|
| 1    | ENCUMBRANCE FOR OFFICE LEASE-ENERGY OFFICE- FY 2010 | 12       | 6208       | \$74,496.00 |
| 2    | "ARRA FUNDS" STATE ENERGY PROGRAM                   |          |            |             |

EXPLANATION

Encumbering funds per Lease for Real Property negotiated between the Department of Natural Resources and Environmental Control, OMB's Division of Facilities Management and Bay Developers for lease of office space for the Delaware Energy Office for Fiscal Year 2010.

ARRA STATE ENERGY PROGRAM

| DATE OF BID | CONTRACT NO.          | SHIP VIA | DELIVERY DATE | TERMS | TOTAL       |
|-------------|-----------------------|----------|---------------|-------|-------------|
|             | ARRA STATE ENERGY PGM |          |               |       | \$74,496.00 |

**BAY DEVELOPERS, INC.**

March 17, 2009

Real Property Administrator  
Division of Facilities Management  
Thomas Collins Building, Suite 1  
540 S. DuPont Hwy.  
Dover DE 19901

**RE: Rent Increase of Office at 1203 College Park Drive**

To Whom It May Concern:

This is just a friendly reminder that the rent for the above address will be increased to \$6,208.00 effective June 1, 2009 through May 31, 2010.

If you should have any questions, please call the number below.

Sincerely,

*Kimberly Edwards*

Kimberly Edwards, Property Manager  
Bay Developers, Inc.

"ARRA"

Title of Fee Pgm

Description of expenditures

cc:file

200 Weston Drive  
Dover DE 19904  
302.736-0924  
302.736.0793 fax  
kim@hmastgroup.com

**Bay Developers Inc.**

# Fax

|   |                           |
|---|---------------------------|
| <b>To:</b> Dawn                                 | <b>From:</b> Kim Edwards  |
| <b>Fax:</b> 139-7014                            | <b>Pages:</b> 2           |
| <b>Phone:</b>                                   | <b>Date:</b> May 14, 2009 |
| <b>Re:</b> Rent Increase for Del. Energy Office | <b>cc:</b>                |

☐ Urgent    ☐ For Review    ☐ Please Comment    ☐ Please Reply    ☐ Please Recycle

The following is the reminder that was sent to the address we have on file for the Delaware Energy Office at College Park.

Please contact me if you have any further questions.

Kim

STATE OF DELAWARE  
OFFICE OF MANAGEMENT AND BUDGET  
LEASE FOR REAL PROPERTY

THIS LEASE, made this 31<sup>st</sup> day of March, 2007 by and between the Office of Management and Budget, acting on behalf of the Department of Natural Resources and Environmental Control (Delaware Energy Office), an agency of the State of Delaware, which will be the initial occupant of the premises hereinafter described, and which is hereinafter referred to as Lessee, and Bay Developers, Inc., hereinafter referred to as Lessor.

WITNESSETH, that for and in consideration of the rents hereinafter reserved and the covenants to be kept and performed by and on the part of the Lessee, Lessor has rented and leased and by these presents does rent and lease unto said Lessee, its successors and assigns:

ALL THOSE CERTAIN PREMISES located at 1203 Suite 101 College Park Drive, College Business Park, Dover, DE, comprising approximately 4,256 rentable square feet, as shown on the attached Exhibit "A", together with ample surface parking

TERM: Said Lease shall exist for a term of five (5) years, which shall commence on June 1, 2007, and shall terminate on May 31, 2012.

(1) HOLDING OVER

If Lessee shall fail to vacate the premises upon expiration, Lessee shall be a month-to-month tenant and subject to all laws of the State of Delaware applicable to such tenancy. The rent to be paid Lessor by Lessee during such continued occupancy shall be the same being paid by Lessee as of the date of expiration.

(2) RENEWAL OPTION

Lessee shall have one (2) options to renew this Lease for an additional three-year term commencing on expiration date, on the same terms and conditions. Lessee shall provide Lessor sixty (60) days written notice prior to the expiration date of its intent to renew.

(3) POSSESSION OF PREMISES: DELAYED DELIVERY

Lessor shall complete improvements to Premises in accordance with provisions of Exhibit "A" prior to possession. Written notice from Lessor to Lessee that Premises are available for occupancy on a specific date shall constitute delivery to Lessee. If possession is not delivered

to Lessee by commencement date and cause for delay is not the fault of Lessee or its agents, the first month's rent due shall be prorated to reflect the date of occupancy.

(4) ACCEPTANCE OF PREMISES

Occupying all or any portion of the Premises by Lessee shall be a rebuttable presumption that the Premises are in satisfactory condition and acceptable to Lessee subject to latent defects and deficiencies listed in writing by Lessee to Lessor within thirty (30) days after Lessee's occupancy and corrected by Lessor within thirty (30) days after receipt of said notice. Nothing in this paragraph should be construed as constituting a waiver by the Lessee of any remedies, in law or in equity, which Lessee may have for latent defects that could not be reasonably discovered during the foregoing 30-day period.

(5) SUBSTITUTE PREMISES

N/A

(6) RENT

All monies payable by Lessee to Lessor under this Lease shall be deemed to be rent and shall be payable and recoverable as rent in the manner herein provided. Rent shall be paid to Lessor in advance, on the first day of each calendar month, during the entire term of this Lease, without deduction or set-off, except as otherwise provided herein, at the Lessor's address: 200 Weston Drive Dover, DE 19904, or to such other person or entity or to such other address as Lessor may designate in writing. Should this Lease commence on a day other than the first day of the month or terminate on a day other than the last day of the month, the rent for such partial month shall be pro-rated based on a 365-day year. The annual rent to be paid for the above-described Premises is \$70,224.00 payable in monthly installments of \$5,852.00. This is equal to \$16.50 per square foot. Rent shall be increased by 3% annually upon each anniversary date.

(7) SERVICES

It is hereby agreed by and between parties to assume sole cost and expense for performance of building services hereto as follows:

A. Utilities

- |                   |        |
|-------------------|--------|
| - Electricity     | Lessor |
| - Gas             | Lessor |
| - Water and Sewer | Lessor |
| - Telephone       | Lessee |

|    |  |        |
|----|--|--------|
| B. | Janitorial Service   | Lessor |
| C. | Repair and maintenance of heating, air conditioning, plumbing, electrical and lighting systems and major components    | Lessor |
| D. | Exterior, structural, grounds, parking area repair and maintenance including ice and snow removal                      | Lessor |
| E. | Ordinary repair and maintenance to the interior (including light bulbs)  | Lessee |
| F. | Repair and maintenance to the exterior   | Lessor |
| G. | Taxes and Insurance  | Lessor |
| H. | Repair and maintenance of telephone, data and security systems (or other systems or equipment not installed by Lessor) | Lessee |
| I. | Other _____  | n/a    |

**(8) LESSEE'S RIGHT TO MAINTAIN OR REPAIR**

If the Lessee first informs the Lessor in writing of the needed repairs and the reasonable costs thereof and the Lessor indicates an unwillingness to reimburse the Lessee for the reasonable costs therefor, the Lessee shall be authorized to expend reasonable costs incurred in repairing the Premises excluding contents so that the operation of the Lessee's function may continue unimpaired. All bills incurred by the Lessee under this provision may thereafter be forwarded to the Lessor for payment and if payment is not forthcoming in a timely manner, the Lessee shall pay the same but may abate such amount from future rental payments.

**(9) MAINTENANCE BY LESSOR**

Lessor shall repair, replace and maintain the external and structural parts of the building which do not comprise a part of the Premises, janitor and equipment closets, and shafts within the Premises designated by Lessor for use by it in connection with the operation and maintenance of the building. Lessor shall perform such repairs, replacements and maintenance with reasonable dispatch, in a good and workmanlike manner.

**(10) LESSOR'S RIGHT OF ENTRY**

Lessor, its agents or employees shall have the right to enter the Premises at reasonable hours to make inspections, alterations, or repairs to the building or the Premises. In event of emergency, Lessor, its agents or employees shall have the right of entry at any time and may perform any acts related to safety, protection, preservation or improvement of the building or the Premises. Except for repair of casualty damage, Lessee shall not be entitled to any

abatement or reduction of rent because of work performed within the building or the Premises by Lessor.

(11) QUIET ENJOYMENT

Lessor agrees that, subject to terms, covenants and conditions of this Lease, Lessee may, upon observing and complying with all terms, covenants and conditions of this Lease, peaceably and quietly occupy the Premises.

(12) ASSIGNMENT; SUBLET

Lessee shall not assign or mortgage this Lease, or sublet all or any portion of the Premises without Lessor's prior written consent, which shall not be unreasonably withheld. No assignment, mortgaging or subletting, if consented to by Lessor, shall relieve Lessee of its liability under this Lease. Consent by Lessor shall not operate as a waiver of the necessity for consent to any subsequent assignment, mortgaging or subletting and the terms of such consent shall be binding upon the assignee, mortgagee or subtenant. Any transfer of this Lease by merger, consolidation or liquidation or any change in ownership shall constitute an assignment, whether the result of a single or series of transactions.

(13) ZONING

Lessor warrants that the leased Premises are in compliance with all applicable zoning ordinances, restrictions, and easements of record, ordinances or governmental laws and regulations of any kind or nature whatsoever. If the leased Premises are not in compliance with the above, and such compliance deprives Lessee of a substantial part of the benefit of its bargain, Lessee shall notify Lessor, in writing, of its intention to vacate the Premises and to terminate this Lease. Such notice shall be given no later than thirty (30) days prior to termination.

(14) SURRENDER AT EXPIRATION

Upon expiration or other termination of this Lease, Lessee shall immediately surrender possession of the Premises to Lessor in substantially the condition in which Lessee is required to maintain the Premises, except for reasonable wear and tear and damage by fire or casualty. All keys which Lessee has been furnished for any locks within the building and the Premises shall be delivered to Lessor. Upon surrender, all right, title and interest of Lessee in the Premises shall cease. All property remaining in the Premises following surrender shall be

considered to have been abandoned by Lessee and Lessor may dispose of it in any manner Lessor wishes.

**(15) ALTERATIONS**

Lessee shall not make any structural alterations to the Premises without Lessor's prior written consent. The Lessor may not unreasonably withhold consent. Lessee shall not be required to obtain Lessor's consent with regard to alterations necessary for the installation of telephone or teletype equipment, ordinary business machines, shelving, or demountable office partitions furnished by Lessee. Nothing contained herein, however, shall preclude the Lessor from stipulating in writing where such machines or apparatus shall be installed due to considerations of weight load, noise vibrations or other engineering difficulties. All trade fixtures and apparatus installed on the Premises shall remain the property of the Lessee and at the option of Lessee shall be removable before the expiration of the term herein provided, or any extension hereof; provided that Lessee shall restore the premises to the condition in which they were before the installation of such trade fixtures and apparatus, reasonable wear and tear excepted.

**(16) INSURANCE: DAMAGE OR DESTRUCTION**

Lessee shall comply with all laws, rules, orders, directions and requirements and recommendations of the local board of fire under-writers and the fire insurance rating organizations having jurisdiction over the area in which the Premises are situated, or other bodies or agencies now or hereafter exercising similar functions in the area in which the Premises are situated, in any way pertaining to the Premises or the use and occupancy thereof.

It is hereby understood that Lessee is self-insured as to property insurance as an agency of the State of Delaware and is sovereignly immune from liability claims. Lessor covenants and agrees to maintain liability insurance, and insurance covering the building and Premises against loss from damage or destruction by fire and the perils specified in the standard extended coverage endorsement; and Lessor hereby expressly releases and discharges Lessee, its agents, visitors, servants or employees in case of damage or destruction by fire or such perils; it being the intention of the parties that Lessor shall look only to its insurance carrier for payment of such loss.



If the leased Premises shall be rendered unusable in whole or in part by fire, the elements, unavoidable accident, or other casualty, Lessee may vacate the Premises and notify Lessor, in writing, of its election to vacate within seven (7) days of vacating. In such instance, this Lease shall terminate as of the date Lessor received such notice. If Lessee elects not to vacate, but to remain and continue its enjoyment of the Premises, Lessor shall promptly, and at its own expense cause such damage to be repaired. Such repairs shall be completed within ninety (90) days of the date of such casualty. In the event that Lessee elects to remain and continue to occupy the Premises, the rents due under this agreement shall be abated, and Lessee shall be liable only for the value of that portion of the Premises which Lessee still occupies.

**(17) DAMAGE CAUSED BY LESSEE**

In event of damage to the Premises or the building by fire or other causes resulting from fault or negligence of Lessee, its agents, employees or invitees, such damage shall be promptly reported to Lessor and shall be repaired by and at the expense of Lessee under direction and supervision of Lessor. If, within thirty (30) days following occurrence, Lessee fails to repair or replace any damage to the Premises or building caused by negligence of Lessee, its agents, employees or invitees Lessor may, at its option, cause all required maintenance, repairs or replacements to be made. Upon written notice of Lessor, Lessee shall promptly pay Lessor all costs incurred.

**(18) CONDEMNATION**

If the whole or any part of the Demised Premises shall be taken under the power of condemnation or eminent domain, then this Lease shall terminate as to the part so taken on the day when Lessee is required to yield possession thereof. Lessor shall make such repairs and alterations as may be necessary in order to restore the portion not taken to useful condition. Such repairs shall be completed within sixty (60) days of the date Lessee is required to yield possession. Pending the restoration by Lessor of the Premises, the rent due hereunder shall be reduced proportionately as to the part of the Premises rendered untenable due to the restoration. If the amount of the demised Premises so taken is such as to substantially impair the usefulness of said Premises for the purpose for which the same are hereby leased, then Lessee shall have the option to terminate this Lease (by written notice to Lessor) as of the date when Lessee is required to yield possession. The compensation awarded for such taking, both as the Lessor's reversionary interest and Lessee's interest under

this Lease, shall belong to and be the property of Lessor; provided, however, that Lessor shall not be entitled to any portion of the award made to Lessee for loss of business and for the cost of removal of its stock and fixtures.

(19) SIGNAGE

Lessee shall have the right to place or maintain any sign, billboard, placard, awning, lettering, decoration, advertising matter of any kind whether permanent or temporary, on the exterior of the Premises, only with the written consent of the Lessor. Such consent by the Lessor shall not be unreasonably withheld. Lessee shall have the right to place or maintain any sign, placard, lettering, decoration, advertising matter of any kind, whether permanent or temporary on the glass, or in the window or door of the Premises, without the consent of the Lessor, unless Lessor has an established standard with which all occupants of the Premises must comply. Lessee's right to place or maintain such signs, placards, lettering, decoration, or advertising matter shall be limited by applicable ordinances.

(20) DESTRUCTION OF PREMISES

It is agreed by and between the parties that if the Premises are totally destroyed between the date of execution of this agreement and the date of which Lessee is to take possession, this Lease is declared null and void, and of no effect whatsoever. If the subject Premises are only partially destroyed between the above-mentioned dates, the provisions set forth in paragraph 18 shall control.

(21) NOTICES

Any and all notices required by the provisions of this agreement shall be in writing and shall be mailed, certified or registered mail, return receipt requested. All notices shall be sent to the following addresses:

TO LESSEE            Real Property Administrator  
                         Division of Facilities Management  
                         Thomas Collins Building, Suite 1  
                         540 South Dupont Highway  
                         Dover, DE 19901

With a copy

TO LESSEE            Secretary  
                         Department of Natural Resources and Environmental Control  
                         Richardson Robbins Building  
                         89 Kings Highway  
                         Dover, DE 19901

TO LESSOR

Bay Developers, Inc.  
200 Weston Drive  
Dover, DE 19904

Notification of any change in address shall be made pursuant to the above provisions.

(22) WAIVER

Except as provided in paragraphs 16 and 34 thereof, no mention in this Lease of any specific right or remedy shall preclude either party from exercising any other right or from having any other remedy or from maintaining any action to which it may be otherwise entitled either at law or in equity; and the failure of either party to insist in any one or more instances upon a strict performance of any covenant of the other party under this lease or to exercise any option or right herein contained shall not be construed as a waiver or relinquishment for the future of such covenant, right or option, but the same shall remain in full force and effect unless the contrary is expressly waived in writing.

(23) MORTGAGE BY LANDLORD

Lessor shall have the right to transfer, assign, mortgage or convey in whole or in part the Premises and any and all of its rights under this Lease, and nothing herein shall be construed as a restriction upon Lessor's so doing.

(24) SUBORDINATION

This Lease is subject and subordinated to all present and future mortgages, deeds of trust and other encumbrances affecting the Premises. After written request from Lessor, Lessee agrees to execute, at no expense to Lessor, any instrument which may be deemed necessary or desirable by Lessor to further effect the subordination of this Lease to any mortgage, deed of trust encumbrance.

(25) ATTORNMEN

If the interest of Lessor is transferred to any person or entity by reason of foreclosure or other proceedings for enforcement of any mortgage, deed of trust or security interest or by delivery of a deed in lieu of foreclosure or other proceedings, Lessee shall immediately and automatically attorn to such person or entity. In event of such transfer, this Lease and Lessee's rights hereunder shall continue undisturbed so long as Lessee is not in default of this Lease.

(26) ENVIRONMENTALLY HAZARDOUS MATERIALS AND ACTIVITIES

Lessee agrees to refrain from and prohibit the use or possession on the Premises, and on the ground of which it is a part, any environmentally hazardous materials and activities. Lessor shall hold Lessee harmless from any cost of removing any material from the Premises required by any local, State or Federal agency, to the extent that said material was placed at the Premises prior to the commencement date of this Lease or placed at the Premises after the commencement date of this lease by Lessor or third parties.

**(27) ACCESSIBILITY BY THE HANDICAPPED**

Lessor covenants and agrees that, as of the date of lease commencement, the Premises shall comply with the requirements of 29 Delaware Code Section 7308 (c), the Rehabilitation Act of 1973, 29 U.S.C. Section 701 et. seq., the Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et. seq., to ensure accessibility of the facility by disabled or handicapped persons. The cost of any and all renovations required to bring the facility into compliance shall be borne solely by the Lessor.

**(28) CONSENT NOT UNREASONABLY WITHHELD**

Unless otherwise specifically provided, whenever consent or approval of Lessor or Lessee is required under the terms of this Lease, such consent or approval shall not be unreasonably withheld or delayed.

**(29) SUCCESSORS**

All covenants, agreements, terms and conditions contained in this Lease shall apply to and be binding upon Lessor and Lessee and their respective heirs, executors, administrators, successors and assigns.

**(30) RELATIONSHIP OF PARTIES**

Nothing contained in this Lease shall create any relationship between the Lessor and Lessee other than that of Lessor and Lessee, and it is acknowledged and agreed that Lessor does not in any way or for any purpose become a partner of Lessee in the conduct of Lessee's business, or a joint venturer or a member of a joint or common enterprise with Lessee.

**(31) ENTIRE AGREEMENT; CAPTIONS**

Lessee acknowledges and agrees that it has not relied upon any statement, representation, agreement or warranty except such as may be expressly set forth in this Lease and it is agreed by Lessor and Lessee that no amendment or modification of this Lease shall be valid or binding unless in writing executed by Lessor and Lessee. The paragraph headings contained

in this Lease are for convenience only and shall in no way enlarge or limit the scope or meaning of the provisions of this Lease.

(32) SEVERABILITY

Each and every covenant and agreement contained in this Lease is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Lease or the application thereof any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which is invalid or unenforceable, shall not be affected.

(33) GENDER

Words of any gender used in this Lease shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

(34) TERMINATION UPON FAILURE OF APPROPRIATION

In the event the Delaware General Assembly or the United States Congress shall fail to provide specific appropriations to Lessee to sustain this Lease or to satisfy any covenant of the Lease requiring the expenditure of money, Lessee may cancel this Lease at the commencement of the applicable fiscal year or this Lease shall terminate as of the exhaustion of appropriated funds automatically, with no penalty whatsoever. Lessee shall notify Lessor of the above as soon as practical after the occurrence of non appropriation or exhaustion of funds, but failure to provide such notification shall not effect the termination of such Lease as set out above. As used in this paragraph 34 the terms "appropriate, appropriated, or appropriation" shall mean the amount of money specified in the purchase order approved by the Secretary of Finance of the State of Delaware for this Lease. Upon termination under this paragraph 34, Lessee shall have no further liability to Lessor under this Lease, monetary or otherwise.

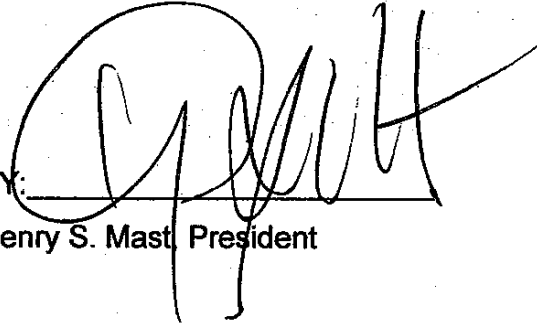
IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals, on the day and year first above written.

LESSOR BAY DEVELOPERS INC.

WITNESS



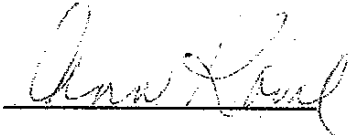
BY:



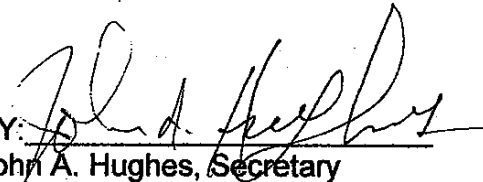
Henry S. Mast, President

LESSEE STATE OF DELAWARE

WITNESS



BY:



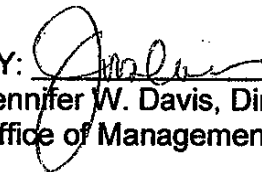
John A. Hughes, Secretary

Department of Natural Resources and Environmental Control

WITNESS



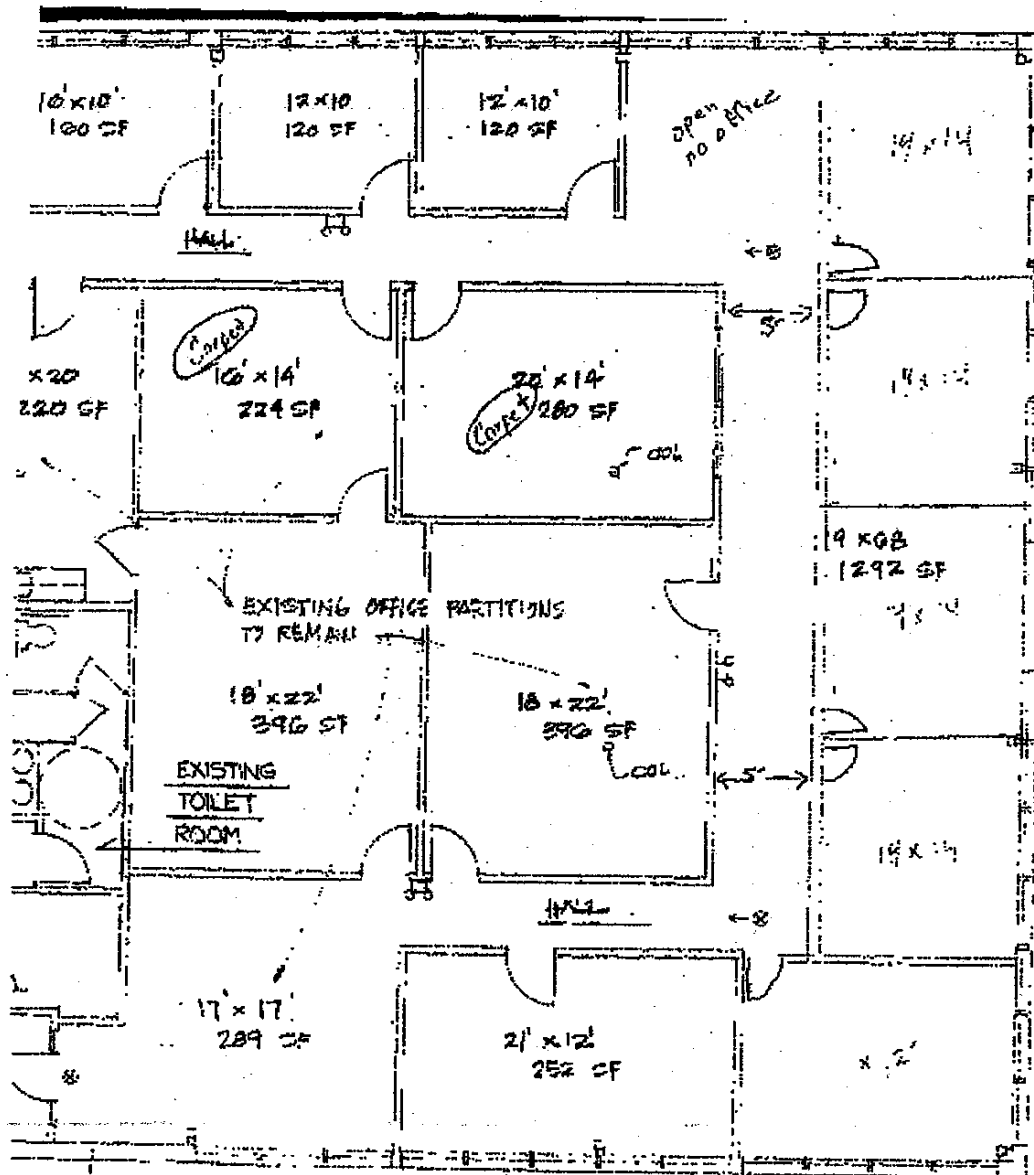
BY:



Jennifer W. Davis, Director  
Office of Management and Budget

## **EXHIBIT "A"**

**Lessor shall complete alterations to the premises, at Lessor's expense, as shown on the attached layout, and such subsequent modifications as shall be mutually agreed upon by within 30 days of signing of this agreement. Construction characteristics shall be in compliance with all applicable zoning ordinances, restrictions and governmental regulations of any kind or nature whatsoever.**





[illegible]